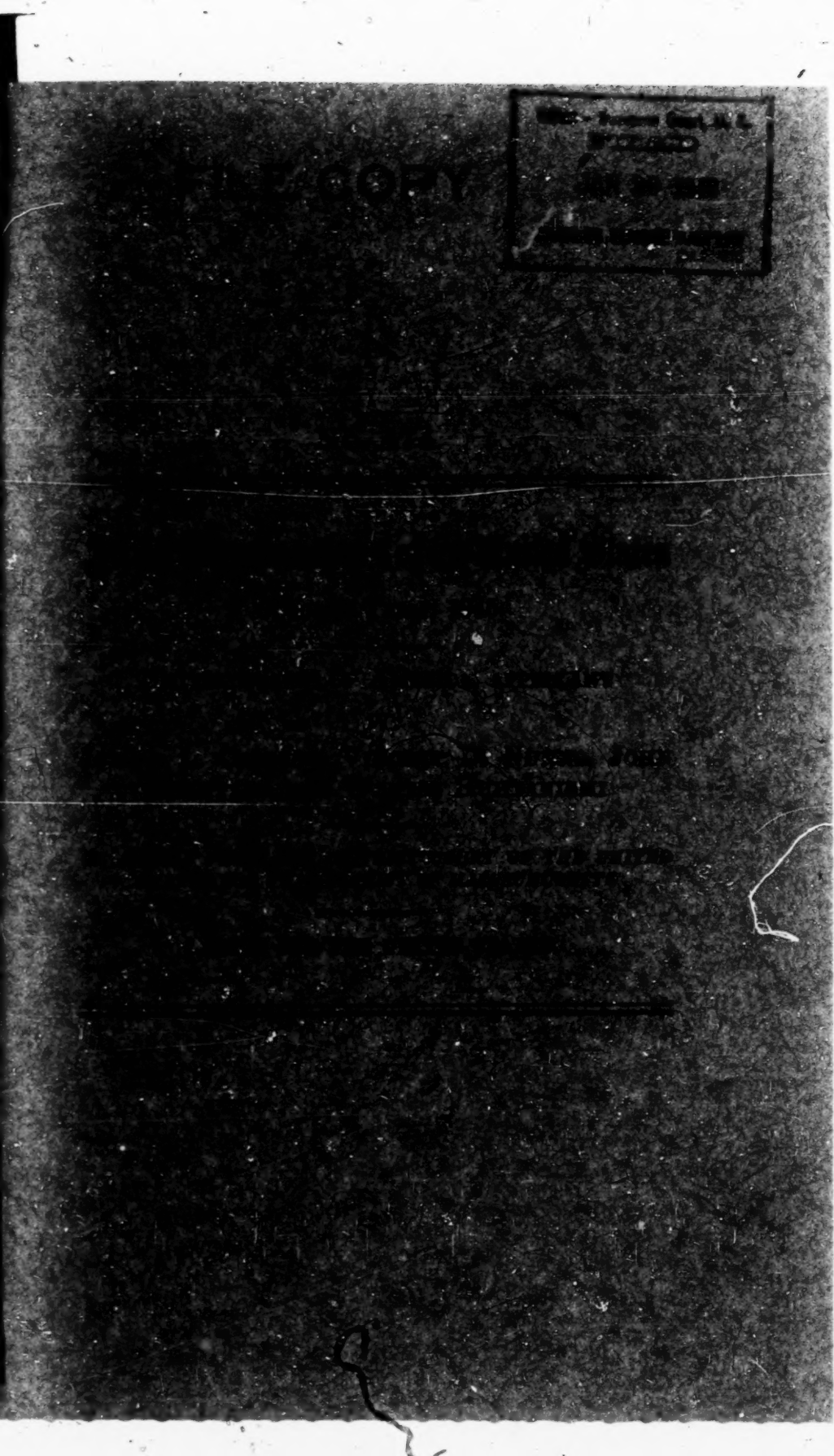

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680630—46——1

In the Supreme Court of the United States

OCTOBER TERM, 1945

No. 474

UNITED STATES OF AMERICA, APPELLANT

v.

JOSEPH L. CARBONE, VINCENT DI NUNNO, JOHN STROPPARO, AND WANTEE HUHTANIEMI

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS

BRIEF FOR THE UNITED STATES

OPINION BELOW

The opinion of the district court (R. 9–10) is reported at 61 F. Supp. 882.

JURISDICTION

The jurisdiction of this Court on direct appeal is conferred by the Act of March 2, 1907, 34 Stat. 1246, as amended by the Act of May 9, 1942, 56 Stat. 271, 18 U. S. C., Supp. IV, 682, commonly known as the Criminal Appeals Act, and by Section 238 of the Judicial Code, 28 U. S. C. 345. The opinion of the district court dismissing the indictment was entered August 1, 1945 (R. 9–10).

A motion thereafter made that a formal judgment be entered was "denied, because not conforming to the practice in this District" (R. 14). The appeal to this Court was applied for and allowed on August 30, 1945 (R. 11–12). Probable jurisdiction was noted by this Court on November 5, 1945, and the case was transferred to the summary docket (R. 16).

QUESTION PRESENTED

Whether the prohibition of Section 1 of the Kickback Act applies to labor union officials who compel workmen on a federal project to surrender a portion of their wages to them as a prerequisite to their retention in employment, where the contractors on the project undertook to employ only such laborers as those officials approved and to discharge any employees at those officials' request, and where the exactions were made under color of union activity, but were collected solely for the officials' personal enrichment, and were neither paid nor reported to the union.

STATUTE INVOLVED

Section 1 of the Act of June 13, 1934 (c. 482, 48 Stat. 948, 40 U. S. C. 276b), commonly called the Kickback Act, provides:

> Whoever shall induce any person employed in the construction, prosecution, or completion of any public building, public work,

or building or work financed in whole or in part by loans or grants from the United States, or in the repair thereof to give up any part of the compensation to which he is entitled under his contract of employment, by force, intimidation, threat of procuring dismissal from such employment, or by any other manner whatsoever, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

STATEMENT

The defendants—Joseph L. Carbone, Wantee Huhtaniemi, John Stropparo, president, financial secretary, and treasurer, respectively, of Local 39 of the International Hod Carriers' Building and Common Laborers' Union of America, and Vincent DiNunno, president of the Eastern Massachusetts Laborers District Council and an employee of Local 39—who, by virtue of their positions and connections with the Local, made a contract (described below) with two contractors engaged jointly in the construction of various public buildings for the United States at Fort Devens, Massachusetts, were indicted (R. 1–4) on March 17, 1944, for conspiracy to violate the Kickback Act by inducing certain persons employed in the construction of such public buildings, financed in whole by grants from the United States, to give up part of the compensation to which they were entitled under their contracts of employment, by force, intimidation, threat of procuring dismissal

from such employment, and by other means. The details of the conspiracy, which is alleged to have continued from October 1, 1940, to March 30, 1941, are set forth in the indictment as follows:

On October 16, 1940, about one month after the signing of the contract for the construction at Fort Devens, Massachusetts, the defendants made an agreement with the contractors whereby the latter undertook to employ as laborers only such persons as were approved by the defendants and to discharge any such employees at their request. The contractors also agreed to employ forty persons named by the defendants, known as stewards, who were to perform such duties as the defendants should direct, and to provide an office for the defendants on the site of the construction. Approximately 7,500 laborers were employed by the contractors in the course of such construction. Following this agreement, the defendants approved to the contractors for employment as laborers only members of Local 39, which, in September 1940, had about 100 members, or of other locals of the International Union, and only such other persons as paid to the defendants the sum of $5.00. The defendants represented to such other persons that this payment would be regarded as an installment upon the initiation fee of Local 39 and the International Union and that each such employee would be required to pay the defendants $5.00 per week until the total initiation

fee was paid or he would not be permitted to continue to work.[1] The form of receipt given to the laborers for the initial and subsequent weekly payments was in the name of Local 39, by defendant Carbone as "Business Representative," and contained spaces for the date and total amount paid by the individual. The form recited: "This recept is good for one week from date." Each week the defendants directed the stewards to go among the laborers and demand of each non-member of the union either that he display a receipt showing that he had paid $5.00 for the current week or that he immediately pay such sum to the steward or the defendants under threat of procuring the laborer's dismissal from employment if he did not do so. The defendants were able to carry out this threat by reason of their agreement with the contractors, and they knew and intended that the laborers would pay the $5.00 weekly payments out of the compensation to which they were entitled by virtue of their employment.

The defendants kept no records of these payments to them by the laborers, except that if a laborer should present receipts showing payment of the initiation fee in full, his name was recorded and sent to the headquarters of the International Union with the sum of $5.35, representing the share of the fee to which the Inter-

[1] The initiation fee was originally $50.00, but it was later reduced to $40.00 and then to $25.00 (R. 2).

national was entitled under its rules. The defendants did not report to Local 39 or to any one the amounts received from laborers paying less than the full amount of the initiation fee, nor did they cause such sums to be recorded in the Financial Secretary's books as the rules of the International required. The defendants knew that the majority of the laborers who paid the initial sums of $5.00 would not and did not complete payment of the full initiation fee. In all these transactions whereby the defendants, acting in agreement, induced the laborers to give up part of the compensation to which they were entitled, they represented that they were acting for Local 39 and the International, at the same time concealing from those organizations the sums they thus collected from laborers who did not pay the initiation fee in full.

The defendants filed motions to dismiss the indictment on the ground, *inter alia,* that it does not state an offense cognizable in law (R. 5–9). In granting the motions (R. 9–10) the District Court held that the Kickback Act applies only to employers or those "vested by the employer with power to fix and terminate the employer-employee status"; that the power of the defendants to demand the discharge of any worker who refused to meet union requirements is "not a delegation of the employers' authority, but a power founded upon a contractual obligation created by a col-

lective bargaining agreement"; and that since the closed shop is within the legitimate objectives of trade unionism, "implementation of this objective by the means used by these defendants should not expose them to the risk of criminal prosecution."

ASSIGNMENT OF ERRORS

The District Court erred:

(1) In holding that the so-called Kickback Act, 48 Stat. 948, 40 U. S. C. 276b, applies only to employers or persons acting directly as their agents in exercising the power to employ and discharge employees;

(2) In holding that union officials are *ipso facto* immune from prosecution under the Kickback Act even though, under color of union activity, they induce a person engaged on a federal project to give up part of his compensation for the personal enrichment of such officials;

(3) In holding that the indictment does not state an offense cognizable in law;

(4) In dismissing the indictment.

SUMMARY OF ARGUMENT

The question here is whether the Kickback Act, which in *United States* v. *Laudani*, 320 U. S. 543, was held applicable to a foreman who had power to employ and discharge employees, ceases to be applicable where the defendants, union officials

not paid by the contractor, have the power to withhold employment and to discharge by reason of virtual delegation pursuant to a closed shop contract.

We contend that the Act applies, by any of the criteria held controlling in the *Laudani* case, because the defendants here had the power, in fact, to affect the employees' status. The language of the statute, which speaks of "threat of procuring dismissal" rather than of "threat of dismissal," supports this construction, and nothing in the Act or its legislative history even remotely suggests that its scope was to be limited to employers or to persons acting directly as their agents. Whatever may be the outer limits of the statute, neither its language nor its history justifies excluding from its coverage exactions obtained where, as here, there is a direct causal relationship between the employment and the exaction of part of the employees' compensation.

While the Kickback Act should not apply to legitimate union activities sanctioned by Congress, the facts alleged in the present indictment leave no room for any suggestion that the defendants were implementing the closed shop objectives of their union. The defendants here exacted funds for their own personal enrichment at the expense of both the union and the employees. The indictment is not based on a union check-off or on other legitimate closed shop activities. The defendants were preventing the fulfillment of union objectives.

ARGUMENT

This case presents the question whether the Kickback Act, in terms applicable to "whoever shall induce any person employed in the construction * * * of any public building * * * to give up any part of the compensation to which he is entitled under his contract of employment, by * * * threat of procuring dismissal from such employment", covers union officials who, under a closed shop contract whereby the contractors undertook to employ only such laborers as these officials approved and to discharge any employees at these officials' request, exacted fees from employees under threat of procuring their dismissal, where such fees were neither paid nor reported to the labor union. Otherwise stated, the problem is whether the Kickback Act, which in *United States* v. *Laudani*, 320 U. S. 543, was held applicable to a foreman who had power to employ and discharge employees, ceases to be applicable where the defendants, union officials not paid by the contractor, have the power to withhold employment and to discharge by reason of virtual delegation pursuant to a closed shop contract. If it is held that the statute is applicable to persons having such power, regardless of whether they are actually employed by the contractor, then there arises the subsidiary question whether they obtain immunity from prosecution by reason of being officers or employees of a labor union, when their exactions

do not inure to the benefit of the union, do not implement the objectives of the union, and result only in their personal enrichment at the expense of thousands of workmen on a federal project.[2]

The United States contends that the Kickback Act is applicable to any person having substantial power to withhold employment and to discharge employees, even though such person is not himself in the employ of the contractor, and that those acting in the name of labor unions are not immune from the operation of the Kickback Act where their exactions from employees are merely for personal enrichment and have no connection with legitimate union activities or objectives.

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[2] The indictment alleged (R. 1) that the workers were employed on the construction of Fort Devens and that the contractors were operating under a cost plus a fixed fee contract with the United States. That the act applies to all federally financed construction work was pointed out by the circuit court of appeals in the *Laudani* case (134 F. 2d 847, 850), as follows:

"Of course, no distinction is to be drawn, and we make none, between work for which the government directly lets a contract to which 'the prevailing rate' of wage to the contractor's employees attaches by virtue of the Act of March 3, 1931, c. 411, § 1, 46 Stat. 1494, as amended, * * * and federally aided work performed for other public agencies to which rates of pay to employees attach by virtue of competent federal departmental regulations. The 'Kick-Back Act' is broad enough to embrace all work financed in whole or in part by federal funds. In fact, the bill (S. 3041) was purposely amended in such regard in Senate committee. See Senate Report, *supra*. [S. Rep. No. 803, 73rd Cong., 2d sess.]"

1. In the *Laudani* case, the Court held, without attempting "to delineate the outside scope of the Act's application," that the Kickback Act applies to a foreman who for his own benefit, compelled subordinate employees to surrender to him a portion of their wages as a condition to retaining their jobs. The Court's opinion examined the legislative history of the Kickback Act and the language of the statute and found (320 U. S. at p. 546) that "the purpose of the Act under consideration is to extend protection not merely to the legal form of employment contracts but to the substantive rights of workers actually to receive the benefit of the wage schedules which Congress has provided for them. The evil aimed at was the wrongful deprivation of full work payments." The legislative history of the act demonstrated to the Court that, as one part of the recovery legislation enacted by Congress during the depression years, "It was the purpose of the Kickback Act to assure that the federal funds thus provided for workers should actually be received by them for their own use except where diverted under authority of law or a worker's voluntary agreement." In rejecting the view of the circuit court of appeals that the act applied only to employers, the Court pointed out that "Foremen vested with full power to employ and discharge subordinates could frustrate the objectives of the Act just as effectively as could their employers, and foremen

not given such broad powers might nevertheless be able to use their authority to accomplish the same result." (320 U. S. at pp. 546–548.)

Tested by the factors which the court found controlling in the *Laudani* case, we believe that the defendants' acts are within the proscription of the Kickback Act.[3] While there are differences in the status of a foreman and of union officials, none of them, we think, detract from the considerations which the Court found convincing in the *Laudani* case and which are equally applicable to this case.

In so far as power to affect the employment relationship is concerned, the defendants' position was at least as powerful as that of Laudani. The indictment alleges that the contractors entered into an agreement with the defendants whereby "the contractors undertook to employ as laborers on the said construction only those who were approved by the defendants and to discharge any of those thus employed at the request of the defendants" (R. 2). It alleges, in substance, that the employers relinquished to the defendants a portion of their own authority to make controlling decisions in respect of employment. With this power, the defendants, of course, were not strangers to the employment relationship; their

[3] Indictments similar to the one involved in this case have been sustained in *United States* v. *Fuller*, 51 F. Supp. 951 (N. D. N. Y.), and *United States* v. *Lombard*, 54 F. Supp. 537 (W. D. N. Y.); see also *United States* v. *McGraw*, 47 F. Supp. 927 (N. D. N. Y.).

approval or disapproval meant the difference between having a job and losing it, between receiving pay derived from appropriated funds and not receiving such pay.

We perceive no basis for distinguishing this case from the *Laudani* case, as the district court did (R. 10), on the ground that the defendants' power over the workers stemmed from a contract with the employers rather than from a direct delegation of the employers' power to hire and fire, such as existed in the *Laudani* case. Whatever may have been the source of the defendants' power, the significant fact is that they were able to exact money from the workers because they were in a position to cause any worker who refused to make payments to them to lose his job. In the words of the indictment, the payments were compelled from a worker "under threat of procuring his dismissal from his employment if he did not pay the five dollars; which threat the defendants were able to carry out by reason of their aforesaid agreement with the contractors * * *" (R. 3). The defendants possessed as much power materially to affect the workers' contracts of employment as did the foreman in the *Laudani* case, and certainly they exacted the payments, in the language of the statute, "by * * * threat of procuring dismissal from such employment." Being union officials policing a closed shop contract, they had the power to make good their threats.

In the *Laudani* case, the Court looked at the realities of the situation, and held that the Kickback Act applied, not merely to employers, but to employees having the power to affect the employment of other employees. A similar realistic approach is called for here; nothing in the *Laudani* decision or in the statute itself suggests that the Act is further limited to persons acting directly as agents of employers. The purpose of the Kickback Act—"that the dollar which is intended for labor goes to that labor"[4]—is not to be thwarted by any such irrelevant legalisms as "privy to the contract of employment,"[5] or standing "in the shoes of the contractors" (R. 10). The critical question is whether the defendants had the power, in fact, to affect the employees' status. Here the indictment alleges that they did.

As we have said, nothing in the statute suggests that it is limited to employers or to persons directly acting as their agents. The statutory language punishing "whoever shall induce" a worker "to give up any part of the compensation to which he is entitled * * * by * * * threat of procuring dismissal" from employment, "or by any other manner whatsoever" indicates a broader sweep. It says, "threat of procuring dismissal," not "threat of dismissing." And nothing in the

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[4] Hearings, Subcommittee of Senate Committee on Commerce, S. Res. 74, 73d Cong., 2d sess., Vol. I, pp. 791–792.

[5] *United States* v. *Laudani*, 131 F. 2d 847, 850 (C. C. A. 3).

legislative history of the Act reflects any congressional purpose to exclude from the proscription of the Act extortion from workers on a federal project by men who accomplish their illegal objective by misusing their official connection with a labor union. That history is reviewed in the *Laudani* opinion, and there is thus no occasion to restate it here; see also, for a discussion of the history of the act, the Brief for the United States in the *Laudani case*, No. 71, October Term, 1943, pp. 38–43. Suffice it to say that the abuses which had been made known to Congress included not only those by employers but also those by other "racketeers," including union officials who placed self-interest above the interest of the union members. Hearings, Subcommittee of Senate Committee on Commerce, S. Res. 74, 73d Cong., 2d sess., Vol. I, pp. 35; 82, 808, 811, 814, 826.[8] As Judge Bryant stated in *United*

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[8] Judge Thomas C. T. Crain, District Attorney of New York County: "In many industries it has been from time to time confliction between union and nonunion labor. Some employers in employing nonunion labor have been approached by people having for their purpose the dismissal of those who are employed, and the employment of union men. In some cases there have been rival labor unions, one claiming to be the regular and authentic union and charging that the other is what might be called a 'bogus' organization" (p. 35).

* * * * * * *

George Z. Medalie, United States Attorney, S. D. N. Y.: "Racketeering is so wide-spread that it affects, particularly in large cities, most industries and practically all transportation. The two representatives of labor who talked here this

States v. *Fuller*, 51 F. Supp. 951, 953 (N. D. N. Y.), "A study of the history of the passage of the statute convinces me that, even though much of the testimony and discussions had to do with 'kickback' to employers, the legislators were determined to stop

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morning have shown that racketeering does extend to labor groups; each of them referred particularly to one racketeer in labor who was convicted in the Federal court, which was rather a left-handed way of dealing with that problem, because while that man was convicted of violation of the income tax law in form, in fact he was convicted of local extortion committed right in the State of New York" (p. 82).

* * * * * * *

Adolph Dzik, attorney for the anti-racketeering committee of the A. F. of L. building trade unions of New York:

Mr. Daru [counsel for the Committee]: "Do you think it is usually a dishonest contractor or an employee, superintendent or otherwise, who is sandwiching in between there and getting the 'kick-back'?"

Mr. Dzik: "I think it is the contractor and some of the officials of the unions." (p. 808).

* * * * * * *

Mr. Dzik: "* * * The first victim of the rackets is the workingman, and I believe also that the existence of the small clique that exists within the union organizations, in which the officials perpetuate each other in office and work in close harmony with the contractors for their own profit and gain, that is primarily responsible for the fleecing of labor on both sides" (p. 811).

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Mr. Dzik: "I will say that primarily the contractors themselves are responsible, and that they corrupt the officials of the unions and in that manner are able to do it without being exposed. * * *" (p. 814).

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Howard W. Ameli, United States Attorney, E. D. N. Y.: "Most of the difficulties which arise, as I have observed, oc-

the muleting of public project workers by anyone using the means stated in the statute."

To sustain the indictment in this case "is not to hold that the Act applies to every extortioner, blackmailer, or other person who extracts money from one who has previously received it for labor on a federally financed project." (320 U. S. at p. 548.) And, whatever may be the outer limits of the statute, neither its language nor its history justifies excluding from its coverage exactions obtained where, as in this case, there is a direct causal relationship between the employment and the exaction of compensation by illegal means.

2. As this Court has recognized, there are instances where the Congressional policy in favor of otherwise legitimate union activities must yield to a countervailing Congressional policy expressed in the Criminal Code. *Southern Steamship Co.* v. *National Labor Relations Board*, 316 U. S. 31. This is probably not such a case; we are prepared to agree with the court below (R. 10) that the Kickback Act should not apply to legitimate union activities which are sanctioned by Congress,[7] par-

curred under the guise of payments to alleged legitimate labor organizations. Since there is no element of interstate commerce involved, I do not feel that the Federal Government should attempt to regulate the local labor unions. This, in my opinion, is purely a matter for the State government; and if proper regulation could be had of labor unions, their organization and personnel, in my opinion, the cause of the offenses of this type would be removed" (p. 826).

[7] For example, this case does not involve the validity of a union check-off. However, a legitimate union check-

ticularly since the Kickback Act antedates the National Labor Relations Act by more than a year. But this is not a case of conflicting policies. Congress has never sanctioned the frauds which the defendants are charged with having committed on the workers and on the union in this case; there is no Congressional policy which is inconsistent with the application of the Act to the defendants' activities.

The district court thought (R. 10) that "The closed shop is within the legitimate objectives of trade unionism. Implementation of this objective

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off, the propriety of which is impliedly recognized in the provisions of the National Labor Relations Act (Act of July 5, 1935, c. 372, Secs. 8 (3), 9 (a), 49 Stat. 449, 452, 453; 29 U. S. C. 158, (3), 159 (a)) for the designation of exclusive collective bargaining representatives and authorizing closed-shop agreements with such representatives, would not, in our opinion, fall within the "Kick-back" Act, since it would constitute merely the collection by an otherwise lawful method of an assessment that the employee can validly be required to pay in any event as a condition of securing or retaining his employment; and the Secretary of Labor has so recognized by providing a procedure for securing authorization of a deduction that "is for the benefit of the employees or their labor organization through which they are represented and is provided for in a bona fide collective bargaining agreement." Section 2.5 (b) (2) (ii) of Regulations of Secretary of Labor (29 C. F. R.) as amended February 3, 1942 (7 Fed. Reg. 686, 688). In *Virginia Electric & Power Company* v. *National Labor Relations Board*, 319 U. S. 533, this Court impliedly recognized that a union not company-dominated may provide employees with a sufficient *quid pro quo* for the check-off.

by the means used by these defendants should not expose them to the risk of criminal prosecution." But on the facts alleged in the indictment, there is no room in this case, in our view, for any suggestion that the defendants were implementing the closed shop objective of their union. The defendants were acting contrary to the interests of the union. Defendants here exacted funds, not for the benefit of the union, not for the ultimate benefit of the employees which might be expected to result from union membership, but for their own personal enrichment at the expenses of union and employees alike. Defendants can therefore not claim that they are within the exempting policy of the National Labor Relations Act. The indictment makes clear that the prosecution is not based on legitimate closed shop activities. It specifically alleges (R. 3):

> And the defendants made no report to the Local 39, or to anyone, of the amount they had received from laborers paying less than the full initiation fee as aforesaid, or the total sums they had collected in this way, nor did they cause any of the sums collected in this way and received by them to be recorded in the Financial Secretary's book as the rules of the said International Union required: The defendants well knowing that the majority of those who paid the initial five dollars would not and did not complete payment of the full initiation fee.

The scheme charged in the indictment contemplated that with the sanction of a closed shop agreement all of the workers on the project would be required to become members of the union of which the defendants were officers and to pay a substantial initiation fee collectible in weekly installments. The nub of the scheme was that many of the workers who paid installments to the defendants "would not and did not complete payment of the full initiation fee." Accordingly, to enable themselves to exact the payments for their personal enrichment the defendants made no union records of the payments they secured from the workers, as the rules of the International Union required, and they concealed from the local union and the International Union the sums they collected from all those persons who did not pay the full initiation fee (R. 3).

It is evident, therefore, that the union received no benefit from the diversion by the defendants of funds which were paid to the defendants on the assumption that the payments went to the union. Far from implementing the objectives of the union, the defendants were obviously precluding the fulfillment of those objectives by their misuse of their official positions. The workers who made the payments were, of course, not benefited. The union was not benefited. The sole advantage gained from the transactions described in the indictment accrued to the defendants personally.

Such conduct, obviously, does not amount to an implementation of the objectives of trade unionism.

This case is of the same pattern as *Nick* v. *United States*, 122 F. 2d 660, 669–670 (C. C. A. 8), certiorari denied, 314 U. S. 687, rehearing denied, 314 U. S. 715,[8] which involved a prosecution under the Anti-Racketeering Act, 18 U. S. C. 420a–420e. As in this case, the defendants were officers of a local union, and they were convicted for using their union offices to exact bribes from employers with whom they negotiated wage contracts for the union. The circuit court of appeals rejected the same reasoning which the district court followed in this case and pointed out that extortion is as much an offense when committed by union officers, for their personal gain, in connection with wage negotiations as it is when committed by persons not affiliated with labor organizations. The reasoning of the court aptly expresses the considerations in support of the Government's position in this case (122 F. 2d at 668):

> Individuals may obtain power in labor organizations which is capable of use to obtain unwilling payments from employers through bringing about or threatening to bring about violence or through coercion.

[8] The petition for a writ of certiorari was denied after the Court had granted the writ in *United States* v. *Local 807*, 315 U. S. 521, and a second petition for rehearing was denied after the decision of the *Local 807* case (316 U. S. 710).

> So long as that power is used solely to obtain more wages, such exercise of power is expressly excluded from the Act. It is only when such power is misused to obtain personal benefits for such individuals and not for the membership that the Act applies. The Act covers no action by a labor leader honestly acting for the members of his organization. It does cover the compulsory payment of graft to a labor leader for his own individual enrichment. Thus construed, the Act is clearly as protective to labor organizations and their membership as it is to employers. The payment of graft to a labor leader is clearly, the purchase of his loyalty to his organization. The result is betrayal of his organization. Labor is likely to suffer more through such a sellout than the employer who, willingly or unwillingly, pays the bribe. By punishing the traitorous leader who uses his power for his personal enrichment at the expense of his organization, the Act truly is at least as protective of employees as it is of employers. The Act makes such betrayal hazardous.

Cf. *United States* v. *Local* 807, 315 U. S. 521.

The exactions which the defendants obtained from thousands of workers on this federal project were not, in the words of this Court in the *Laudani* case (320 U. S. at 547), "diverted under authority of law or a worker's voluntary agreement." Instead, they were obtained by threat of

procuring dismissal of the workers from their employment. And they were obtained solely for the benefit of the defendants individually and not for the benefit of the union or of the workers who made the payments. The purpose of the Kickback Act is not served by denying to workers the protection of the Act solely because the exactions upon them were made by union officers rather than by a foreman or a contractor.

CONCLUSION

For the reasons stated, it is respectfully submitted that the judgment of the district court should be reversed.

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JANUARY 1946.